

REMARKS

Applicant hereby affirms the election to prosecute the invention of species I, claims 1-6, and 8-14.

Claim 1 is currently amended eliminating a typographical error. Claims 6-15 are canceled without prejudice to the subsequent filing of a continuation application. Claims 16-23 are withdrawn from consideration and are canceled without prejudice to the subsequent filing of a continuation application. Claims 1-5 are pending.

Section 102- Dewar

Claims 1, 3, 6, 8-9, 11 and 14 are rejected under 35 USC § 102(b) as being anticipated by Dewar, U. S. Patent No. 5,803,539. The rejection of claims 6, 8-9, 11, and 14 are moot in view of the cancellation of those claims.

Applicant respectfully traverses the section 102(b) rejection of claims 1-5.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or

inherently described, in a single prior art reference."

Verdegaal Bros. V. Union Oil Co. of California, 2 USPQ2d 1051, 1053, (Fed. Cir. 1987). Also, "All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494. 496 (CCPA 1970).

Referring to the language of claim 1, specified is a seat including a seat portion and an attached seat back portion. Also specified is a top, which has a lower end and which is fitted over the seat back portion, and a bottom, which has a rearward end and which is fitted over the seat portion. An engagement assembly carried by one of the lower end of the top and the rearward end of the bottom is also specified. A complementary engagement assembly carried the other of the lower end of the top and the rearward end of the bottom is still further specified. The engagement assembly is detachably engaged to the complementary engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom.

Thus, from the language of claim 1 it can be seen that several specific elements are included in the claimed architecture. First, a seat includes a seat portion and an

attached seat back portion. Second, a top has a lower end and is fitted over the seat back portion. Third, a bottom has a rearward end and is fitted over the seat portion. Fourth, an engagement assembly is carried by one of the lower end of the top and the rearward end of the bottom. Fifth, a complementary engagement assembly is carried the other of the lower end of the top and the rearward end of the bottom. Sixth, the engagement assembly is detachably engaged to the complementary engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom. Each of these elements specifically describes a feature or structure of the invention.

The six basic elements of claim 1 are specific components of the claimed invention and specifically describe how the top and the bottom are arranged and attached to one another in relation to the seat portion and the seat back portion. As can be seen from the plain language of the claim, these elements are not simply characteristics that occur naturally or inherently. Clearly, no prior art structure discloses all of the structural features of the claim unless it includes these six elements.

On page 4 of the Office Action, the Examiner rejects claim 1 as anticipated by Dewar because Dewar discloses "the use of a seat including a seat portion (12) and an attached seat back portion (14); a uniform top (22), having a lower end, fitted over the seat back portion and a uniform bottom (20), having a rearward end (48), fitted over the seat portion an engagement assembly (38) carried by one of the lower end of the uniform top and the rearward end of the uniform bottom; a complemental engagement assembly (40) carried the other of the lower end of the uniform top and the rearward end of the uniform bottom; and the engagement assembly detachably engaged to the complemental engagement assembly detachably engaging the lower end of the uniform top to the rearward end of the uniform bottom." Here the Examiner has cited some structure and based his statement on elements disclosed by Dewar.

Claim 1 specifies an engagement assembly carried by one of the lower end of the top and the rearward end of the bottom, a complemental engagement assembly is carried the other of the lower end of the top and the rearward end of the bottom, and the engagement assembly detachably engaged to the complemental engagement assembly detachably engaging

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the lower end of the top to the rearward end of the bottom.

The Examiner failed to cite this structural limitation in Dewar. While the Examiner states that Dewar has "an engagement assembly (38) carried by one of the lower end of the uniform top and the rearward end of the uniform bottom; a complemental engagement assembly (40) carried the other of the lower end of the uniform top and the rearward end of the uniform bottom; and the engagement assembly detachably engaged to the complemental engagement assembly detachably engaging the lower end of the uniform top to the rearward end of the uniform bottom," this structure is not present in Dewar.

In Dewar, the Examiner cites engagement assembly (38) carried by one of the lower end of the uniform top and the rearward end of the uniform bottom, and complemental engagement assembly (40) carried the other of the lower end of the uniform top and the rearward end of the uniform bottom, in which engagement assembly (38) is detachably engaged to the complemental engagement assembly (40). This is not the case. Top 18 has straps (38) and buckles (36), in which straps (38) of top (18) are attached to buckles (36) of top (18), respectively, securing top (18) to seat back (10). Straps (38) and buckles (36) of top (18) secure

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top (18) only to seat back (10). Engagement assembly (38) does not secure a complementing engagement assembly (40) of bottom (20), so as to detachably engage a lower end of top (18) to a rearward end of bottom (20). Bottom (20) includes straps (38) and buckles (36), as well, in which straps (38) of bottom (20) are attached to buckles (36) of bottom (20), respectively, securing bottom (20) to seat cushion (12). Straps (38) and buckles (36) of bottom (20) secure bottom (20) only to seat cushion (12). Engagement assembly (38) does not secure a complementing engagement assembly of bottom (20), so as to detachably engage a lower end of top (18) to a rearward end of bottom (20).

Since the Examiner does not cite any structure or disclosure from Dewar of these structural limitations, she is implicitly admitting that Dewar does not include an engagement assembly carried by one of the lower end of the top and the rearward end of the bottom, a complemental engagement assembly carried the other of the lower end of the top and the rearward end of the bottom, and the engagement assembly detachably engaged to the complemental engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom. Thus, it is unclear whether the Examiner is taking judicial notice of

this structure, in which case Applicant traverses it. It seems more plausible that her rejection is based on an incorrect examination of the structure and function of Dewar's seat cover.

The Examiner states that in Dewar top (18) is a uniform top and that bottom (20) is a uniform bottom. Applicant disagrees. The top (18) and bottom (20) of Dewar do not have uniform adornment that identifies a member of an organization. Furthermore, since the Examiner does not cite any structure or disclosure from Dewar of this structural limitation, she is implicitly admitting that Dewar does not include uniform adornment that identifies a member of an organization as set forth in Applicant's dependent claim 2. Thus, it is unclear whether the Examiner is taking judicial notice of this structure, in which case Applicant traverses it. It seems more plausible that her rejection is based on an incorrect examination of the structure of Dewar's seat cover, as nowhere in Dewar is there any teaching of his seat cover including uniform adornment that identifies a member of an organization.

Clearly, the structure of Dewar does not have all of the structural features of the claimed invention. Thus,

the Examiner's arguments must fail as they are not supported by the teachings and structure of Dewar.

Clearly, Dewar does not disclose the structural features of Applicant's claimed invention. Further, since Dewar does not disclose all of the structural features of an engagement assembly carried by one of the lower end of the top and the rearward end of the bottom, a complemental engagement assembly carried the other of the lower end of the top and the rearward end of the bottom, and the engagement assembly detachably engaged to the complemental engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom, he does not disclose all of the structural features of Applicant's claims. Finally, since Dewar does not disclose all of the structural features of Applicant's claims, his structure does not inherently include an engagement assembly carried by one of the lower end of the top and the rearward end of the bottom, a complemental engagement assembly carried the other of the lower end of the top and the rearward end of the bottom, and the engagement assembly detachably engaged to the complemental engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom. Thus, claim 1 is not anticipated by Dewar, since each and

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every element as set forth in the claims is not found, either expressly or inherently described, in Dewar. Claim 3 is dependent upon a claim that is allowable according to the argument set forth above and, therefore, is allowable.

Section 103 - Dewar and Bolewski

Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewar, U.S. Patent No. 5,803,539, in view of Bolewski, U.S. Des. 365,958). Claim 10 is canceled, which renders moot the rejection of that claim. Applicant respectfully traverses the rejection of claim 1.

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Further, a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W. L. Gore &*

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Associates, Inc. v Garlock, Inc., 721 F.2d 1540, 220 USPQ

303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

"All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494. 496 (CCPA 1970).

As explained above, Dewar does not disclose the limitations of claim 1 and claim 1 is allowable. Claim 2 is dependent upon claim 1 and is, therefore, also allowable, which renders moot the rejection of claim 2.

Since Dewar and Bolewski, each individually and in combination, do not disclose the claimed invention, Applicant believes that claims 1-5 are now in condition for allowance. Accordingly, it is respectfully asserted that applicant's claims 1-5 are clearly allowable and the case is now in condition for allowance.

Dependent claims 2-5 add additional novel features and are, *a-fortiori*, patentable. The cited and non-applied subsidiary references have been noted and reviewed, but are submitted to be less relevant than the relied-upon references.

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Examiner's thorough and thoughtful consideration of
this application is sincerely appreciated.

Respectfully submitted,



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